

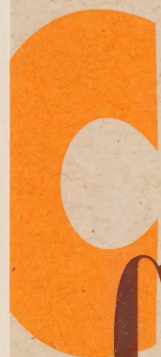
CA2ON
MA 204
-1995
B03

GOVT

7

Ontario

Governance
Publications



Consents

3

BULLETIN

Planning
reform
in Ontario

CA20N
MA 204
- 1995
B03

7

Ontario

Government
Publications

C Consents

3

BULLETIN

Planning
reform
in Ontario

For more copies of this document,
in either French or English,
please contact:

Publications Ontario Bookstore

880 Bay Street

Toronto, Ontario

M7A 1N8

1-416-326-5300 or

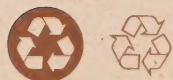
1-800-668-9938

**List of Information Bulletins on
Ontario's New Planning System:**

1. Official Plans and Amendments
2. Plans of Subdivision
3. Consents
4. Zoning and Minor Variances
5. Transition to the New Planning System
6. Planning in Northern Ontario

Disponible en français : Autorisations

ISBN 0 7778 3801 X



© Queen's Printer for Ontario, 1995

AWT5608

Consents



BULLETIN



Digitized by the Internet Archive
in 2022 with funding from
University of Toronto

<https://archive.org/details/31761115479800>

Table of Contents

.....

	Introduction: The Consent	1
Part 1	Who Grants Consent	3
Part 2	The Application Process	4
	A. PREPARATION AND PRECONSULTATION.....	4
	B. WHAT THE PROPONENT SHOULD SUBMIT	4
	C. ACCEPTING THE APPLICATION	4
	D. TIME-LINES FOR DELIBERATION	5
Part 3	Is the Consent Appropriate	6
Part 4	Consultation	7
	A. CONSULTING OTHER AGENCIES	7
	B. CONSULTING THE PUBLIC	7
Part 5	Deciding on the Application	8
	A. MAKING THE DECISION	8
	B. PROVISIONAL CONSENT	9
Part 6	Appeals	10
	A. APPEALING A NON-DECISION	10
	B. APPEALING A DECISION	10
	C. APPEALING CONDITIONS	11
	D. FINAL CONSENT	11
Appendix A	Checklist	12
Appendix B	Flowchart	20



Introduction: The Consent

This bulletin is one of a series intended to explain Ontario's planning system, as revised in 1995. Bulletin 3 describes the process for consent applications.

In 1995 the Ontario government amended the Planning Act R.S.O. 1990, and fundamentally changed the way planning is done in Ontario. These revisions made planning in Ontario more efficient, more accountable, and more protective of the environment. The changes clarified the responsibilities of the different levels of government, and provided the basis for consistent decisions across the Province.

Land division in Ontario should generally occur by plan of subdivision. It is a process which involves the laying out of roads, division of land into lots or blocks, the dedication of lands for other public purposes, and entering into subdivision agreements. It also involves wide consultation with the public and government agencies.

Where land division is minor, e.g. involving only one or two lots and, for example, where a plan of subdivision is clearly unnecessary for orderly development, or where a boundary is being adjusted, the Act provides a simpler process, called the granting of consent. There are, however, many similarities between the subdivision and consent granting processes.

This bulletin contains two appendices, one which depicts a flowchart of the process, the other which contains a checklist to help users in managing a case load of consent applications.

This bulletin strives to use plain language and is intended as a guide only. For precise legal references, the user should consult the statutes and the regulations.

.....



Who Grants Consent

The Act itself assigns the authority to grant consents to councils in:

- regions;
- the District Municipality of Muskoka;
- counties;
- local municipalities that are in counties but do not form part of that county for municipal purposes;
- cities in territorial districts that are not in regions or district municipalities;
- Metro Toronto;
- the County of Oxford.

In territorial districts, other than in cities, the granting of consents remains the responsibility of the Minister of Municipal Affairs, although he or she may delegate to any local municipality, district land division committee, or planning board in those areas. Conversely, the Minister may remove the assigned or delegated authority. (The Minister also remains the approval authority for the Township of Pelee.)

The councils assigned this authority may further delegate this authority to a committee of council, an appointed officer, a committee of adjustment, a land division committee, a council of the lower tier, or a municipal planning authority if the council assigned the authority is in a county or is a county.

What's new

The Minister's approval is no longer required for a delegation to the lower tier.

• • • • •



The Application Process

A. PREPARATION AND PRECONSULTATION

The 1995 revisions to the Planning Act promote a process which is timely and efficient. One of the ways the process achieves this is by encouraging the proponent to submit a complete application package. It is important therefore that the planning authority make it clear to applicants what is needed and encourage the proponent to assemble this necessary information up front. This would include preparing necessary reports, and consulting interested agencies before submitting the application. By doing this the proponent and the authority may be able to identify and resolve issues which might otherwise delay the decision. This will also help the proponent better understand what policies and guidelines the agency may use, what steps the proponent may have to follow or changes they may need to make to ensure that their application reflects those policies, and what additional reports or information the agency may require with the application.

Best Practice

Preconsultation with municipality, and/or approval authority, and review agencies.

B. WHAT THE PROPONENT SHOULD SUBMIT

To provide certainty and direction early in the process, the proponent must provide the authority with information that is complete enough to allow full deliberation. A regulation under the Planning Act prescribes exactly what information must go into the application. The applicant and the authority should refer to the regulation for the details.

An authority may wish additional information over and above that required in the regulation to help in evaluating the proposal. The authority should encourage the proponent to submit such information, although it cannot refuse to consider the application if this information is lacking.

...

C. ACCEPTING THE APPLICATION

Once the authority receives an application which contains all the prescribed information, it must accept the application as “complete” and commence deliberation. If, however, the application lacks the prescribed information, the approval authority may refuse to consider it until the prescribed information arrives.

Although the authority may want more information than the regulation requires, if the applicant fails to include this extra information, the authority cannot consider the application to

Consents

be “incomplete,” as long as the applicant provides everything required by the regulation.

The authority should adopt an administrative procedure whereby it can advise an applicant that their application is accepted, whether it is refused and why, or what additional prescribed information they would require to consider it further.

...

D. TIME-LINES FOR DELIBERATION

Preconsultation and completeness of the submission should facilitate timely decisions. However, the Act includes an opportunity for proponents to appeal to the Ontario Municipal Board (OMB) for a decision on the application if the authority has not made a decision within 90 days. The authority should be aware that the 90-day period commences on the day an application with all prescribed information is received, even if the additional information that the authority has decided it requires has not been included. The Act does not require that the decision itself occur within that period, only that a proponent may appeal if a decision is not made within 90 days. Issues may arise on occasion that cannot be resolved within that time. In these cases the authority should consult with the proponent to assure them that it is working to resolve issues and to make the most timely decision that it can, and that an OMB appeal for its own sake would not speed things up.

What's New

- *if the approval authority has not made a decision on the consent application after 90 days, an appeal may be made to the OMB;*
- *the applicant must submit an application which contains the information which is prescribed in the regulation.*

.....



Is the Consent Appropriate

Among the main reasons for controlling the division of land in Ontario are the protection of the environment and the orderly development of land. Therefore one of the first matters to consider before reviewing a consent application is whether a plan of subdivision is a more appropriate way to permit that development. Council or the Minister must be satisfied that a plan of subdivision is not necessary for the proper and orderly development of the municipality. For example, where the consent represents only a minor division of land and does not perpetuate a history of multiple lot creation by consent, then a plan of subdivision will not likely be necessary.

Ideally, the approval authority will have criteria in its OP to allow it to assess when a plan of subdivision would be more appropriate.

Once satisfied that the consent process is appropriate, the authority will then consult with various government agencies, local, provincial and where necessary, federal, and with the public.

4

Consultation

A. CONSULTING OTHER AGENCIES

Those agencies with whom the approval authority (other than the Minister) must consult are prescribed in a regulation. Notwithstanding this, to reduce the time it needs to evaluate a consent application, the authority may consider obtaining a set of screening criteria if available from the agencies with whom it normally consults. Such criteria may help them determine if a proposal satisfies that agency's concerns. In some cases an applicant might wish to discuss their proposal with various agencies before even submitting an application.

Despite such preconsultation, the authority may need to circulate the application to certain agencies for their assessment, and for conditions which they may wish to apply to the particular application.

...

B. CONSULTING THE PUBLIC

The Act requires the authority to consult with prescribed persons and agencies. It requires the approval authority to give notice of application to prescribed agencies. In giving notice to the agencies, the regulation also requires that a copy of the application be sent with a request for comment.

At least 14 days before a decision, the authority must give notice of the application. The contents of the notice, those to whom it must be given and the manner in which it must be given are all prescribed in the regulation.

What's New

- *the approval authority must give public notice of consent applications, and hold public meetings if prescribed.*

.....

5

Deciding on the Application

A. MAKING THE DECISION

In making a decision on an application, the approval authority should consider the requirements of the Planning Act, the policies of the official plan, the government’s Comprehensive Set of Policy Statements, agency comments, and input from the public.

All development decisions in Ontario must be consistent with the provincial policies in the Comprehensive Set of Policy Statements. In addition, the Act lists the criteria an approval authority must consider:

- what effect will it have on the health, safety, convenience and welfare of present and future inhabitants;
- impact on provincial interests (as referred to in section 2 of the Planning Act);
- is it premature or in the public interest;
- do the lands suit the proposal;
- are the roads adequate in terms of their number, width, location, proposed grades, elevations, and their linkages with other roads;
- is the dimension and shape of the lots, and the overall plan, suitable, and does the layout address energy conservation;
- what if any restrictions are there, now or proposed, on the lands or buildings and adjoining lands;

- are the utilities and municipal services adequate;
- are the school sites adequate;
- does it address the conservation of natural resources and flood control;
- is the area of land, other than for highways, being conveyed or dedicated for public purposes suitable; and, most important,
- does it conform with the official plan and adjacent plans of subdivision.

When the authority makes its decision, it must, within 15 days, notify by fax, personal service or first class mail:

- the applicant;
- anyone who asked in writing to be notified, this may include the Minister of Municipal Affairs;
- everyone that provided written comments or written submissions;
- and anyone else that the regulation prescribes.

The 30-day period for appealing a decision starts after the giving of notice has been completed.

The notice must include: a copy of the decision, that objectors have 30 days to appeal that decision, (indicating exactly what that expiry date is), and all other items that the regulation requires. If the authority receives no appeal in that time, the decision becomes final and staff

Consents

should swear a declaration that notice occurred properly and that no appeals were received. The decision may be a refusal or a provisional consent.

...

B. PROVISIONAL CONSENT

If the authority is satisfied with the principle of the development, it may grant provisional consent. This means that the applicant must fulfil a set of conditions before the authority will grant them final consent (approval).

While some agencies which the authority consulted may have no problem with the principle of the development, they may have specific requirements for the applicant to meet. The authority may draw up conditions and incorporate them into their provisional consent, thereby allowing the proponent to carry out that agency's specific requirements before it gives its final consent.

Provisional consent may also require the proponent to enter into an agreement with the authority or to require the applicant to give land or a cash alternative to the municipality for park or other public recreational purposes. The payment is determined by the value of the lands on the day before provisional consent was given.

An agency or the applicant may ask for changes to the conditions of provisional consent. If the authority agrees, and if the changes are not minor then it must renotify the applicant, and anyone

who in writing requested notification of the original decision or of changes to the conditions, including possibly the Minister of Municipal Affairs and any other prescribed persons or bodies, again allowing a period of 30 days for appeals. If in the opinion of the approval authority the changes are minor in nature, then it is not required to give notice of the changes.

What's New

- *notice of decision to applicant, anyone who asked to be notified in writing, anyone making written comments or submissions and anyone else prescribed;*
- *objectors have 30 days after issuance of notice of decision is completed to appeal to the OMB;*
- *all approval authorities may modify conditions.*

.....

6 Appeals

A. APPEALING A NON-DECISION

In some cases the authority may be unable to make a timely decision. If 90 days pass following the receipt of the complete application and the authority has not made a decision, the Act allows the applicant to appeal directly to the OMB for a decision. When the authority realizes it might face such a delay, it should advise the applicant early. The 90-day period allows an applicant a course of action when he or she feels that the authority is not acting in a timely way. Therefore it is important that the authority keep the applicant fully advised of the deliberation process by developing a procedure for updating them.

Best Practice

Devise tracking system for all applications.

.....

If the authority receives an appeal it has 15 days in which to forward the notice of appeal, the fee, and the complete record to the OMB. The complete record will include the application, all submissions, the notice of the appeal itself and other requirements as set out in the regulation. If the applicant withdraws the appeal, the OMB will notify the authority, which may then continue its deliberations. If the applicant does not withdraw, the OMB will hold the hearing and may make any decision that the authority may make on the original application. The OMB's decision is final.

B. APPEALING A DECISION

When the authority gives notice of its decision, anyone may object. The Act allows them to do this by appealing the decision to the OMB. Appellants must indicate, in writing, reasons for their appeal. They may send their notice of appeal to the clerk of a municipality, if the municipality is the authority, and to the secretary treasurer of a land division committee, or a committee of adjustment, if that is the authority, or to the Minister where the Minister is the approval authority. They must do this within 30 days after the authority has given notice of its decision, and include the OMB fee.

The OMB may dismiss an appeal with no hearing if the appellant failed to put their concerns in writing before the authority's original decision, or to make an oral submission at a public meeting if one was held (unless the appellant can convince the OMB that he or she had good reasons for not participating earlier), or if the appellant failed to provide further information that the OMB may have requested. The OMB may also dismiss the appeal if the appellant did not include planning reasons, if in the opinion of the OMB the appeal was frivolous, vexatious, or for delay, or if the consent is premature because necessary public water, sewer, or road services would not be available within a reasonable time. The OMB may make any decision that the authority may make on the original application, and here again, the OMB's decision is final.

Consents

.....

If no one appeals within the 30 days, a staff member of the authority should swear a declaration that notice was given and no appeals were received. While the legislation does not make this mandatory, it represents a good practice and a clearer process.

Best Practice

Sworn declaration by employee of approval authority that notice was given and no appeals received in 30 day period.

.....

C. APPEALING CONDITIONS

An authority may change any of the conditions of provisional consent. Anyone may appeal such changes to the OMB. As with appeals of the original decision, appellants have 30 days within which they must provide the authority with the notice of appeal, written reasons for appealing, and the fee. And as with appeals to the decision, the authority has 15 days, after the last day for appealing, to forward these items to the OMB, along with the complete application and all comments and submission and any other material required by regulation. The OMB may dismiss the appeal. If it holds a hearing on the appeal, the OMB's decision is final.

...

D. FINAL CONSENT

Once a provisional consent has been given, the applicant has one year to fulfil the conditions. The one-year period begins when the notice is given if there has been no appeal, or when, if it is appealed to the OMB, the Board has issued its order or notice that all appeals have been withdrawn or dismissed.

The consent becomes final when the applicant fulfils the conditions of provisional consent and when the authority provides a certificate of consent. If the consent transaction does not occur within two years after the date on the certificate, the consent lapses.

What's New

- *after 90 days, an applicant can appeal "no decision" by the approval authority to the OMB;*
 - *the OMB may dismiss an appeal on the newly added grounds that the consent is premature because specified public services would not be available in a reasonable time or if no concerns were expressed prior to the authority making its decision, among other grounds;*
 - *appeal rights extended for provisional consent conditions.*
-



Appendix

CHECKLIST FOR APPROVAL AUTHORITIES (MUNICIPALITIES)

Section 53 CONSENTS

Using this Checklist

This checklist is intended to help approval authorities track an application and establish critical dates.

The left hand side lists the consent process and provides reminders regarding the time frames for decisions, appeals and forwarding of records. Reference is also made to the relevant subsection of the Planning Act (the Act) and O.Reg. 41/95 made under the Act.

The right side provides room for the administrator/planner to fill in the relevant dates and manage the progress of the file.

Please note: The process outlined in this guide applies when the approval authority is a municipality. When the approval authority is the Minister, the process is slightly different.

This checklist is intended as a guide only. For existing law, reference should be made to the official volumes of the Statutes of Ontario.

.....

A. APPLICATION

Subsections 53(1)-(3) and (14)

Activity	Date
Date application received.	1
<p>Is the application complete? [subsection 53(2)] Prescribed information is set out in section 2 of O.Reg. 41/95.</p> <p>Reminder: Establish as quickly as possible that the application is complete and acknowledge receipt.</p>	
Activity	Date
<p>If NO: Notify the applicant that the application is incomplete.</p> <p>Reminder: Approval authority may refuse to accept or to further consider an incomplete application [subsection 53(3)].</p>	
Date that applicant/agent notified that application is incomplete, and/or date application was returned.	2
Bring forward date if application not returned and information has been requested from applicant.	3
Activity	Date
<p>If YES: The proponent can appeal to the Ontario Municipal Board if no decision is made within 90 days after the application is received. (See the section at the end of this checklist entitled Appealing for Failure to Decide.) Calculate 91 days from the date the application is received [subsection 53(14)].</p>	
Earliest date proponent may appeal to OMB if no decision is made (Line 1 + 91 days)	4

.....

B. APPLICATION NOTICE

Subsection 53(4)

The approval authority must give notice of the application at least 14 days before making a decision [clause 53(4)(a)]. For notice requirements, see section 4 of O.Reg. 41/95.

Activity	Date
Date notice completed.	5
Date of follow-up with agencies, if required.	6

C. CONFERRING/CIRCULATION

Subsection 53(10)

Note: Subsection 53(10) requires that an approval authority confer with persons or public bodies prescribed when receiving a consent application. None has been prescribed. The approval authority must send notice of the application and information about the application to the public bodies set out in section 4 of O.Reg. 41/95, and may confer with other persons and public bodies as they consider appropriate.

Activity	Date
Date circulated to persons or public bodies other than those who are required to receive notice (see section B above) [subsection 53(10)].	7
Date of follow-up on circulation.	8

.....

D. MAKING A DECISION

Subsections 53(12)-(13) and (17)-(18)

The approval authority must give notice of the application at least 14 days before a decision can be made.

Activity	Date
Earliest date a decision could be made (Line 5 + 15 days)	9
Date decision made to give or refuse provisional consent.	10
Notice of the decision must be given within 15 days of the decision. Notice requirements are set out in subsection 53 (17) and (18) of the Act and section 6 of O.Reg. 41/95.	
Date by which notice must be given. (Line 10 + 15 days)	11
Date notice completed.	12

.....

E. DECISION BECOMES FINAL/APPEAL OF DECISION

Subsections 53(19)-(29)

Once notice has been given, anyone can appeal the decision within 30 days to the OMB. If there is no appeal, the decision is final.

Activity	Date
Last day for filing notice of appeal. (Line 12 + 30 days)	13
Date decision final if there is no appeal. (Line 12 + 31 days)	14
If no appeal is received, a sworn declaration may be made to that effect.	
Date of sworn declaration that notice given and no appeal has been filed [subsection 53 (22)].	15
If a notice of appeal is filed, the approval authority has 15 days from the end of the 30-day appeal period in which to forward the notice of appeal, fee and the required record to the OMB. The contents of the record are set out in section 8 of O.Reg. 41/95.	
Date notice of appeal and fee filed [subsection 53(19)].	16
Date notice of appeal acknowledged.	17
Date by which notice of appeal, fee and record must be forwarded to the OMB (Line 13 + 15 days).	18
Date notice of appeal, fee and record actually forwarded to the OMB [subsection 53(28)].	19

.....

F. CHANGE OF CONDITIONS

Subsections 53(23),(24),(25),(26)

Once the decision has been made to give provisional consent, the conditions can be varied. Unless the changes are minor, the approval authority has to give notice of this decision within 15 days. Notice requirements are set out in subsection 53(24) and (25) of the Act, and in section 7 of O.Reg. 41/95.

Activity	Date
Date of request for change of conditions, if applicable.	20
Date of circulation, if any.	21
Date of circulation response(s), if required.	22
Date of decision to change conditions.	23
Date by which notice must be given (Line 23 + 15 days)	24
Date notice of change of conditions completed.	25

.....

G. APPEALING A CHANGE OF CONDITIONS

Subsections 53(24) and (27)

Anyone can appeal a change of conditions within 30 days after the giving of notice is completed.

Activity	Date
Last day for filing notice of appeal (Line 25 + 30 days).	26
Date decision becomes final if no appeal (Line 25 + 31 days).	27
If no appeal is received, a sworn declaration may be made to that effect.	
Date of sworn declaration that notice given and no appeal has been received.	28
If a notice of appeal is received, the notice, the fee and the record set out in section 8 of O.Reg. 41/95 must be forwarded to the OMB within 15 days after the end of the appeal period.	
Date notice of appeal and fee received.	29
Last date for forwarding notice of appeal, fee and records to OMB (Line 26 + 15 days).	30
Date appeal, fee and records forwarded to the OMB.	31

H. GIVING OF CONSENT

Subsections 53(40), (41), (42)

Activity	Date
Date by which conditions must be fulfilled -- one year from the date notice was given under subsection 53 (17) or (24) [subsection 53 (41)].	32
Date of consent.	33

I. APPEALING FOR FAILURE TO DECIDE

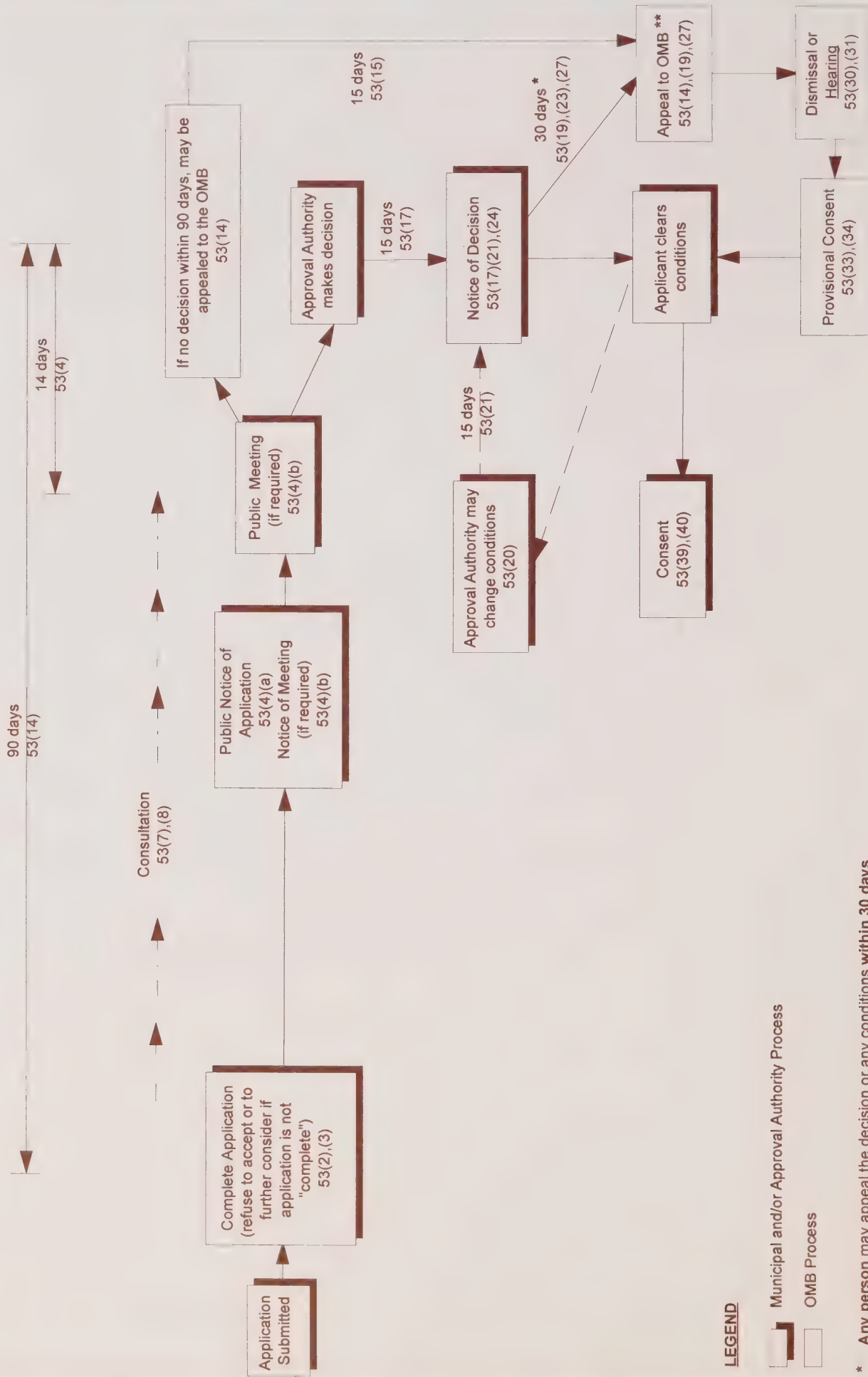
Subsections 53(14)-(15)

If a decision is not made within 90 days after submission of the complete application, the proponent may appeal to the OMB. If such an appeal is received, the approval authority has 15 days to forward it to the OMB along with the required record set out in section 5 of O.Reg. 41/95.

Activity	Date
Earliest date proponent is permitted to appeal if no decision (date of application + 91 days, see Line 4).	34
Date notice of appeal and fee received.	35
Date notice of appeal acknowledged.	36
Date by which notice of appeal, fee and record must be forwarded to the OMB (Line 35 + 15 days)	37
Date notice of appeal, fee and record actually forwarded to the OMB.	38

B. FLOWCHART

Consent



3 1761 11547980 0

